



Cooperative Agreement Guide and Frequently Asked Questions

Land Buy-Back Program for Tribal Nations

August 2013

Introduction

The Department of the Interior (DOI, the Department) is interested in partnering with tribes to gain their direct participation in the Land Buy-Back Program for Tribal Nations (Buy-Back Program / Program). The Department intends to enter into cooperative agreements with tribes to capitalize on their abilities to minimize administrative costs and improve the overall effectiveness of the Program on their reservations.

A cooperative agreement is a type of financial assistance award. It is a legal instrument representing the relationship between the Federal Government (i.e., the Buy-Back Program) and a recipient (i.e., a tribe). Its principle purpose is to transfer a thing of value (primarily funding in this case) to a recipient to carry out a public purpose of support or stimulation, as authorized by the Federal Government.¹ When completing the activities under a cooperative agreement, substantial involvement is expected between the parties.



Unlike a grant, a cooperative agreement entails “substantial involvement” on the part of the Department during the award period. Examples of “substantial involvement” from DOI may include participation and collaboration with the tribe in carrying out the statement of work, reviews / approvals of one stage of work before the next can begin, and / or assistance with selection of project staff.²

The overall goal of utilizing cooperative agreements is to successfully implement the Program at all locations designated by the Department.

The Cooperative Agreement Application Package

With the exception of a cover letter, which is optional, a tribe’s cooperative agreement application package must include all of the following documents to be considered for funding:

- Cover Letter (Optional)
- Completed Scope of Work Template
- Statement(s) of Work
- Completed SF-424 Application Forms:
 - *The SF-424 Application for Federal Assistance*
 - *The SF-424(A) Budget Information for Non-Construction Programs*
 - *The SF-424(B) Assurances for Non-Construction Programs*
- Tribal Authorization

Sections I – V explain these documents in additional detail.

I. Optional Cover Letter

The optional cover letter should be addressed to Buy-Back Program Manager, John McClanahan, and should provide a brief summary of the application content.

II. Scope of Work Template

¹ 505 Departmental Manual (DM) 2, Section 2.9 at B(1).

² 505 DM 2, Section 2.9 at B(3)(a).

Following initial discussions, joint planning, collaboration, and consultation with the Buy-Back Program, tribes must submit a completed Scope of Work Template as part of their cooperative agreement application package. The Scope of Work

Template is a high-level document that details the four phases of the land consolidation process as well as phase-specific tasks that the tribe may propose to undertake. The tribe will essentially “check off” the phases and phase-specific tasks it proposes to perform. Some phases contain several phase-specific tasks; however, the tribe will only “check off” those tasks it is willing and able to complete. The Program will take responsibility for tasks left unchecked in the template.

SCOPE OF WORK TEMPLATE
Between the Land Buy-Back Program for Tribal Nations and the Participating Tribe

OVERVIEW. This Scope of Work describes essential roles, responsibilities, functions, activities, and deliverables necessary for the successful implementation of the Land Buy-Back Program for Tribal Nations (Buy-Back Program) and the acquisition of Fractional Interests.

For each phase and phase-specific task described below, there is box that the Participating Tribe will check – following initial discussions, joint planning, collaboration, and consultation with the Buy-Back Program - to identify the level of tribal involvement. The Participating Tribe will perform the identified tasks in cooperation with the Buy-Back Program and in accordance with the terms and conditions of the Cooperative Agreement. If specific phases or tasks are not checked, the Buy-Back Program will perform the work necessary in consultation with the Participating Tribe.

In addition to identifying the phases and tasks it is willing to perform within the Scope of Work Template, the tribe will also need to work with the Program to determine and fill in the following information on the Template:

- A point of contact (POC) for the tribe and Program for the outreach, land research, valuation, and acquisition phases;
- Start and end dates for the four phases;
- Due dates for specific tasks (e.g., outreach plan); and
- End date for the tribe’s cooperative agreement with the Program.

III. Statement of Work

The Statement of Work is a comprehensive document that expands upon the objectives, roles, responsibilities, and tasks agreed upon in the Scope of Work. It provides more detailed narrative and budgetary information on the anticipated deliverables, activities, and costs and is required as part of a tribe’s cooperative agreement application package. Due to the level of detail necessary, a tribe must submit a completed Statement of Work for each of the four land consolidation phases it has agreed to participate in per the Scope of Work Template. Consequently, if a tribes plans to participate in more than one phase, it will need to prepare and submit more than one Statement of Work as part of its application for a cooperative agreement. Tribes may also submit a Statement of Work for each phase-specific task it plans to undertake.

STATEMENT OF WORK DEVELOPMENT INSTRUCTIONS

I. Introduction

The Statement of Work is a comprehensive document that expands upon the roles, responsibilities, functions, tasks, and deliverables in the Scope of Work Template that a Participating Tribe has agreed to execute. Similar to a grant proposal, the Statement(s) of Work is the document where a Participating Tribe provides detailed narrative and budgetary information on the anticipated activities under, and the associated costs to be charged to, a Cooperative Agreement with the Land Buy-Back Program for Tribal Nations (Buy-Back Program/Program).

Please refer to the Statement of Work Development Instructions for additional information.

IV. Standard Application Forms

In addition to the Scope of Work Template, and the Statement(s) of Work, tribes must also complete and submit the following three standard federal financial assistance application forms as part of their cooperative agreement application packages:

OMB Number: 4040-0004 Expiration Date: 03/31/2012	
Application for Federal Assistance SF-424	
* 1. Type of Submission: <input type="checkbox"/> Preapplication <input type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	* 2. Type of Application: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision * If Revision, select appropriate letter(s): <input type="text"/> * Other (Specify): <input type="text"/>
* 3. Date Received: <input type="text"/>	4. Applicant Identifier: <input type="text"/>

- [SF-424, Application for Federal Assistance](#)
- [SF-424A, Budget Information for Non-Construction Programs](#)
- [SF-424B Assurances for Non-Construction Programs](#)

V. Tribal Authorization

The application package must be approved by the tribe through an authorizing tribal resolution, or other official means by which tribal business is done, prior to submission to the Buy-Back Program. A copy of the tribal authorization must be submitted as part of the application package.

Awarding of the Cooperative Agreement

In order to award a cooperative agreement to a tribe, the Program will complete the Cooperative Agreement Template with information from the tribe's submitted application package. The purpose of this award document is to provide the legal instrument through which funding can be provided to a tribe to carry out the agreed upon Program activities. An authorized tribal official must sign the Cooperative Agreement Template to acknowledge that the tribe understands the terms and conditions of the agreement. Upon signature, the tribe must return the signed agreement to the Buy-Back Program for the funds to be obligated. A copy of the final award documents, including the signed and obligated cooperative agreement, will be sent to the tribal POC after obligation.

Frequently Asked Questions

I. General

- [How will the Department consider tribes' application packages for cooperative agreements?](#)
- [Can my tribe apply for a cooperative agreement?](#)
- [Can my tribe use a Self-Determination contract \(i.e. the Public Law \(P.L.\) 93-638\) or a Self-Governance compact instead of a cooperative agreement for Program activities?](#)
- [Can my tribe work with other tribes to implement the Buy-Back Program?](#)
- [What is the estimated timeframe for my tribe's cooperative agreement \(i.e., how long will the Program operate on my reservation\)?](#)

II. Activities

- [What are some typical activities that my tribe may perform under a cooperative agreement?](#)
- [Are there activities that my tribe cannot perform under a cooperative agreement?](#)
- [What support will the Program provide to my tribe during the land consolidation phases?](#)
- [Can my tribe obtain outside assistance for the responsibilities outlined in the Scope of Work?](#)
- [What will the Program monitor after a cooperative agreement is in place?](#)

III. Funding

- [After the Department approves my tribe's cooperative agreement, when and how will we receive funding?](#)
- [Is my tribe able to immediately receive a portion of the administrative funding and invest it in an interest-bearing account?](#)
- [What portion of the Fund will be used to fund my tribe's cooperative agreement?](#)
- [Can my tribe receive additional funding for its cooperative agreement?](#)

IV. Miscellaneous

- [If my tribe fails to fulfill its responsibilities under its cooperative agreement, what are the consequences?](#)
- [Can my tribe hire full-time staff to carry out aspects of the Program?](#)
- [If my tribe purchases materials and equipment for use during Program implementation, who owns the items once the Program is no longer active at our reservation?](#)
- [Who can I contact for more information?](#)

I. General

1. How will the Department consider tribes' application packages for cooperative agreements?

The Department will use several criteria to consider proposed cooperative agreements. These criteria may include:

- Completeness of the application package;
- The tribe's capacity to perform the tasks and meet the task-specific requirements outlined in the Scope of Work;
- The tribe's proposed budget(s); and
- Whether the tribe has satisfactorily conformed to the terms and conditions of previous awards as determined by statutory, regulatory, and agency requirements.

After submitting the application package, the tribe should expect to receive initial feedback from the Department on its application within 30 calendar days.

2. Can my tribe apply for a cooperative agreement?

Tribes may review and familiarize themselves with the cooperative agreement application documents and are encouraged to contact Buy-Back staff to discuss the documents before preparing or submitting an application.

Importantly, not all of these tribes may be eligible for funding. If a tribe is not eligible to receive funding, the Buy-Back Program prefers to enter into other agreements, such as memorandums of agreement, to identify timeframes, tribal priority tracts or interests, significant roles and responsibilities, and the tribe's agreement to implement the Program at the designated reservation.

3. Can my tribe use a Self-Determination contract (i.e. the Public Law (P.L.) 93-638) or a Self-Governance compact instead of a cooperative agreement for Program activities?

No, the Indian Land Consolidation Act (ILCA) authorizes the Department to enter into agreements with tribal governments to carry out Program activities. The provisions of the Self Determination Act do not apply to these agreements.³

4. Can my tribe work with other tribes to implement the Buy-Back Program?

Yes, the Program will consider cooperative agreement applications from tribes seeking to work together to implement the Buy-Back Program. Tribes should detail planned tribal collaboration - to include the goals, risks, and benefits of such cooperation - in the application package. Individual tribes may apply for and enter into a cooperative agreement with the Program; and tribes can sub-award to other tribes, who then become sub-recipients under the agreement.

5. What is the estimated timeframe for my tribe's cooperative agreement (i.e., how long will the Program operate on my reservation)?

³ 25 USC 2212, at (b)(3)(C).

In general, cooperative agreements may have up to a 24 month performance period. However, agreement lengths will vary and will depend on the phase and task(s) the tribe plans to undertake. The Department will work with the tribe to determine an appropriate timeframe based on its individual needs as part of the cooperative agreement award process.

II. Activities

1. What are some potential activities that my tribe may perform under a cooperative agreement?

The Buy-Back Program divides land consolidation process into four phases, each of which includes several tasks and / or activities that a tribe may seek to perform under a cooperative agreement. The Initial Implementation Plan (available on the [Program's website](#)) describes the four phases, which are summarized as follows:

- **Outreach:** Develop an outreach plan, publicize the Program on the reservation, contact landowners to obtain up-to-date addresses, identify landowners interested in selling, and educate landowners about the Program
- **Land Research:** Provide the Program current, up-to-date, GIS mapping and tract- and site-specific information, develop a database with comparable sales information, and assess the potential for economic development of mineral resources
- **Valuation:** Identify the tracts amenable to mass appraisal methodology, develop appraisal reports, and complete individual appraisals (i.e., appraise tracts not amenable to mass appraisal)
- **Acquisition:** Assist with outreach activities associated with the acquisition phase, such as helping owners seeking assistance with completing the offer packet, locating valid mailing addresses, and notifying landowners whose whereabouts are unknown (WAO) of their ability to sell land, in accordance with the detailed requirements of the Cobell Settlement Agreement.

Tribes are encouraged to work with the Program to determine which activities it could undertake through a cooperative agreement with the Department.

2. Are there activities that my tribe cannot perform under a cooperative agreement?

Tribes can be involved in all four phases of the land acquisition process. Some phases – particularly the acquisition phase – must be highly automated and centralized in order to maximize time and administrative cost efficiencies, as well as the acquisition of fractional interests. Tribes can perform outreach tasks associated with acquisition functions; however, the primary responsibility for the acquisition phase will remain with the Buy-Back Program, unless specifically negotiated and included in the tribe's cooperative agreement.

3. What support will the Program provide to my tribe during the land consolidation phases?

The Program will provide support by sharing materials across reservations and leveraging lessons learned from previous Buy-Back locations. For example, the Program may distribute outreach materials (e.g., brochures, handouts, and presentations) that a tribe can modify for implementation of the Program at its reservation. In addition, the Buy-Back Program will provide technical support to tribes by designating a POC to answer questions or field suggestions that the tribe may have during the timeframe the Buy-Back Program is active at that location.

4. Can my tribe obtain outside assistance for the responsibilities outlined in the Scope of Work?

Yes, a tribe may use an outside contractor for tribal responsibilities under a cooperative agreement. All proposed costs, including contractor costs, should be detailed in the tribe's application package. Tribal procurement procedures must comply with applicable procurement regulations governing the cooperative agreement ([43 CFR Part 12.76](#)).

5. What will the Program monitor after a cooperative agreement is in place?

It is the Department's policy to ensure the fiscal and programmatic integrity of all its financial assistance programs through proactive monitoring. The Program will monitor awarded cooperative agreements to ensure that tribes carry out funded activities in a manner consistent with the award terms and conditions.

To assist the Department in fulfilling its monitoring responsibilities, tribal recipients of cooperative agreements must comply with financial and performance reporting requirements as detailed in the agreements. These requirements will include the submission of quarterly financial and performance reports.

Tribes must use the SF-425 Federal Financial Report for financial reporting. While there is no standard format for performance reports, at the minimum, the reports should include the following:

- A description of whether objectives were met for the period, including a cost breakdown;
- An explanation for any unmet objectives; and
- Additional information as needed (e.g., analysis of cost overruns).

Final financial and performance reports must be submitted within 90 calendar days of the end of the cooperative agreement. The tribe may also be responsible for providing other reports and related data to the Program upon request or as specified in the cooperative agreement.

III. *Funding*

1. After the Department approves my tribe's cooperative agreement, when and how will we receive funding?

Tribal recipients of cooperative agreements will need to use the [U.S. Department of Treasury's Automated Standard for Payment Applications \(ASAP\)](#) system to request funds. Importantly, unless a tribe is already enrolled in ASAP under the Office of the Secretary's Agency Locator Code (14010001), the tribe will need to enroll regardless of whether it is already using ASAP for other funding agreements, such as Bureau of Indian Affairs (BIA) agreements. Once a tribe has submitted its ASAP enrollment forms to the Department (which will be provided once a cooperative agreement is awarded) and the Buy-Back Program has initiated system enrollment, the ASAP system will electronically contact the tribe with information on the steps required to complete the enrollment process. This process can take several weeks, so tribes are encouraged to initiate enrollment as soon as possible after the agreement is in place.

In addition to submitting payment requests via ASAP, tribes must submit a [SF-270, Request for Advance or Reimbursement](#), as well as supporting documentation (such as invoices), to the Buy-Back Program to request payment of funds.

All costs to be charged by tribes against the cooperative agreement must be allowable, reasonable, and allocable, as detailed in the application documents and in full compliance with Office of Management and Budget Circular A-87 (codified in 2 CFR Part 225, “Cost Principles for State, Local, and Indian Tribal Governments.”).

Note that pre-award costs, or costs that occur prior to the award of the cooperative agreement, are not allowable without prior written approval from the Buy-Back Program.



The tribe must maintain its Program funds for a cooperative agreement in a separate bank account. In addition, the tribe may not use Program funds for any other activities, including activities related to Self-Determination contracts or Self-Governance compacts.

2. Is my tribe able to immediately receive a portion of the administrative funding and invest it in an interest-bearing account?

Neither the Cobell Settlement Agreement nor the Claims Resolution Act of 2010 express authority to invest portions of the Trust Land Consolidation Fund (Fund). The Department will partially advance or fully reimburse, as deemed appropriate, cooperative agreement funds to the tribe for costs incurred in accordance with the tribe’s submitted application and the applicable award terms and conditions.

3. What portion of the Fund will be used to fund my tribe’s cooperative agreement?

The Cobell Settlement Agreement limits the amount that may be expended on administrative costs for implementing the Buy-Back Program to 15% of the total Fund, or \$285 million. The Program will award cooperative agreements from this portion of the Fund. The Department will determine an individual tribe’s cooperative agreement funding based on the tribe’s application and the specific needs for the Program (e.g., capacity to complete mass appraisals, level of outreach required).

The Department will apply any portion of the administrative funds not expended in the administration of the Program back to the purchase fractional interests in trust or restricted land.

4. Can my tribe receive additional funding for a cooperative agreement?

The Department is committed to working closely with tribes to ensure that the Buy-Back Program is as successful as possible. Recognizing that success often requires flexibility, the Program will be able to modify cooperative agreements to adjust the total funding amount when appropriate. In addition, the Program may award multiple cooperative agreements to a tribe should additional funding support be deemed necessary and appropriate.

IV. Miscellaneous

1. If my tribe fails to fulfill its responsibilities under its cooperative agreement, what are the consequences?

The tribe and the Department will always seek to negotiate a cooperative agreement that will achieve successful implementation of the Program. In addition, the quarterly reports provided by the tribe, as well as reports by the Program, will allow the parties to troubleshoot significant issues or problems. However, as

outlined in the Cooperative Agreement Template, if a tribe fails to comply with any term of its agreement, the Buy-Back Program may take one or more of the following actions:

- Temporarily withhold cash payments pending correction of the deficiency by the tribe;
- Disallow all or part of the cost of the activity or action not in compliance;
- Wholly or partly suspend or terminate the current award;
- Withhold further awards for the program; and / or
- Take other remedies that may be legally available.

2. Can my tribe hire full-time staff to carry out aspects of the Program?

Yes, tribes may hire full-time staff to carry out aspects of the Program, and charge the staff costs against the cooperative agreement if detailed in the application documents (i.e., Scope of Work, Statement(s) of Work, and standard application forms) and approved by the Buy-Back Program. Approved staff costs may only be charged against the cooperative agreement for the duration of the award which will generally be no more than 24 months. Therefore, hired staff would most likely need to be temporary or term positions, unless the tribe plans to continue funding the positions itself after the cooperative agreement ends.

3. If my tribe purchases materials and equipment for use during Program implementation, who owns the items once the Program is no longer active at our reservation?

If the materials and equipment were purchased with funding made available through a cooperative agreement from the Buy-Back Program, their disposition is governed by applicable regulations and other laws (e.g., 43 CFR 12, Subpart C, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.”).

4. Who can I contact for more information?

Tribes should contact the Buy-Back Program’s cooperative agreement specialist, Faride Kraft, with questions about cooperative agreements. She can be reached via e-mail at faride_kraft@ios.doi.gov or via telephone at (202) 219-1335.